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BERNICE E. WINANDY  
19529 NO. 98<sup>TH</sup> AVENUE  
PEORIA, ARIZONA 85382  
TEL. NO. 623-825-9352

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AZ CORP COMMISSION  
DOCKET CONTROL

December 17, 2007

Judge Nodes  
Arizona Corporation Commission  
Commissioners Wing  
1200 West Washington  
Phoenix, Arizona 85007-2996

W-03512A-07-0362

Dear Judge Nodes:

Enclosed for your information is a photocopy of a letter to Commissioner Mayes which discusses some of the concerns that I have in the Application of Pine Water Company to Encumber a Part of its Plant and System and Issue Evidence of Indebtedness (K-2 Well).

Thank you for your attention to this matter.

Very truly yours,

*Bernice E. Winandy*

Bernice E. Winandy

Enc

Arizona Corporation Commission  
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BERNICE E. WINANDY  
19529 NO. 98<sup>TH</sup> AVENUE  
PEORIA, ARIZONA 85382  
TEL. NO. 623-825-9352

December 17, 2007

Kristen K. Mayes, Commissioner  
Arizona Corporation Commission  
Commissioners Wing  
1200 West Washington  
Phoenix, Arizona 85007-2996

Re: Application of Pine Water Company to Encumber a Part of its Plant and  
System and Issue Evidence of Indebtedness (K-2 Well)

Dear Commissioner Mayes:

I am writing you to express my concern about the December 4, 2007, Arizona Corporation Commission (ACC) public comment session and the delays in reaching a decision in the above referenced matter.

December 4, 2007 Public Comment

I was very disappointed that this ACC sponsored public comment was allowed to turn into a pep rally for the Rim Country Water Group (RCWG). This group was allowed to pass out their printed material as people entered the building, tape the gym floor to illustrate their position concerning easement and loudly applaud after each of the comments in support of their position.

In remarks at the December 12 hearing at the ACC it was mentioned that you were impressed by the turnout on December 4 and concerned about the amount of general mistrust of Pine Water Company (PWCo) in the community. Please remember that the large majority of PWCo customers were not present at the public comment. It is very possible that this majority of customers stayed home because they felt the evening would be dominated by RCWG tactics and knew the evening would be filled with unsubstantiated accusations (water being trucked out of the area by PWCo), name calling (Mr. Hardcastle being referred to as a slum lord) and gross misrepresentation (water company purchase price in the area of \$750,000+).

I believe that the atmosphere created by RCWG at the public comment was confrontational. Because of this atmosphere some who came to speak in favor of the K-2 Well chose not to speak. It is regrettable that the ACC public comment was held in a manner that did not ensure that all sides would have a chance to be heard.

Kristen K. Mayes, Commissioner  
December 17, 2007  
Page Two

Delays in Making a Decision

The issues that were raised at the December 12, 2007 ACC hearing: constitutionality of the agreement, possible double payment by taxpayer/rate payer, possible damage to Strawberry shallow wells, and etc. have been present from the beginning of the above referenced matter. Why did the ACC wait until December 12 to request briefs?

Delay in this matter is not in the best public interest because: (1) it makes it highly improbable that Pine residents will have relief from hauling charges in the near future; and (2) it is driving up legal fees. It is my understanding that these legal fees will ultimately be paid by the taxpayer/rate payer in the form of higher water user rates.

Finally further delay will place the ACC in the position of influencing the March recall election of four Pine Strawberry Water Improvement District (PSWID) Board members. Therefore, I request that the ACC reach a decision on the K-2 Well before February, 2008. If this request cannot be met, what is the earliest date that Pine/Strawberry residents can expect an answer?

I cannot afford to hire an attorney to present my position in the K-2 Well matter. However, I hope that you will take notice of my letter and provide me with answers to my questions outlined below:

1. Why did the ACC wait until December 12 to request briefs?
2. Can the PWCo legal fees in this matter be passed along to the consumer in higher user rates?
3. Can the ACC reach a decision on the K-2 Well before February, 2008? If not, what is the earliest date a decision can be reached?

Enclosed is a graph which illustrates my understanding of how the \$300,000 will return to the taxpayer/rate payer. Also enclosed is a brief explanation of PSWID which was copied from its website.

Kristen K. Mayes, Commissioner  
December 17, 2007  
Page Three

Thank you for your attention to this matter. I look forward to your reply.

Very truly yours,

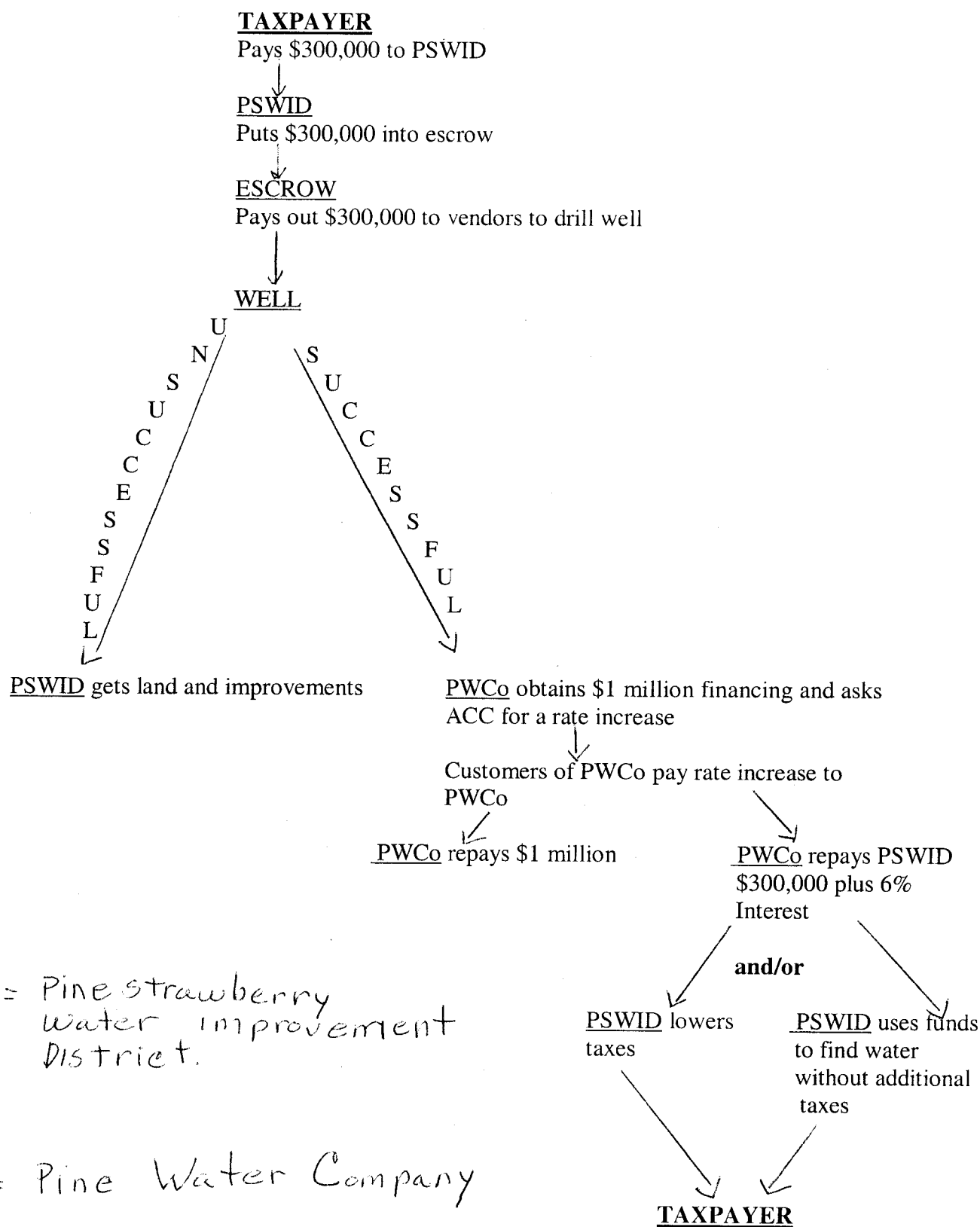
A handwritten signature in cursive script, reading "Bernice E. Winandy".

Bernice E. Winandy

Enc

Cc w/enc: William Mundell  
Mike Gleason  
Jeff Hatch-Miller  
Gary Pierce  
Judge Nodes

Enclosure showing how \$300,000 is returned to Taxpayer.



PSWID = Pine Strawberry Water Improvement District.

PWCo = Pine Water Company

## Mission Statement

The PSWID Board's mission is to represent the interests of the communities and to secure long term and reliable sources of water for the communities. To accomplish this we are to: 1) Investigate current and potential sources of water as well as the costs associated with maintaining or expanding present and potential sources. 2) Formulate a plan or plans for improving present water sources of the communities. 3) Formulate a plan or plans for funding such improvements. 4) Implement and formulate plans as necessary to provide long-term available water to communities.

## General Information

The Communities of Pine and Strawberry, in Gila County, Arizona, are positioned near the geographical center of the State, and are comprised of two pockets of private land surrounded by U.S. National Forest Service (NFS) lands.. The 5000 – 6000 feet elevation provides a four-seasons climate. Year round and part time residents, as well as tourists, enjoy the mountain coolness and forested areas of the Mogollon Rim. As with the other growing areas of rural Arizona, water is caught in the delicate balance between growing demand and limited supply. In common with the rural population centers and the metropolitan areas of the State, the culture of water is ruled by decisions of the historic past and an uncertain future as growth and shifting patterns present new state-wide conditions to confront and surmount.

### **I. The PSWID is charged with securing long-term and reliable sources of water supply.**

The Pine / Strawberry Water Improvement District (PSWID) was formed in 1996. "The purpose of the Board is to represent the interests of the Communities in securing long term and reliable sources of water for the Communities,..." (Reference PSWID Bylaws). The PSWID Board seeks to develop our deep groundwater resources and serve the current water purveyors in the Community with a reliable supply of supplemental water beyond that which their current resources can produce.

PSWID's boundaries encompass the overall extent of the Community's area and surround the service areas of the domestic water improvement districts noted in paragraph II below. The map showing the approved boundaries of the District is shown in Figure 1-1.

### **II. We can't fill the tanks when we pump water out of the wells faster than it flows in.**

The Pine & Strawberry domestic water needs are largely obtained from groundwater and are served by a mix of private wells, regulated water utilities, and domestic water improvement districts. Recent investigations 1 conducted by the PSWID reveal that the historic water supply shortages have been caused by over-pumping the limited storage in fractured rock beyond the fairly constant and dependable recovery rate. Reducing the over-pumping has consistently allowed the wells to recover, regardless of whether there was precipitation or drought. Drought and low precipitation are not the fundamental cause of the shortages. The Arizona Department of Water Resources has deemed this area to have an "inadequate water supply".

### **III. The deep R-Aquifer meets our needs.**

Investigations by the PSWID Board for alternative sources of water supplies have identified the deep aquifer in the Redwall Limestone and associated strata (R-Aquifer) as the most favorable water resource from which to develop additional sustainable water supplies for the area. Other suggested sources are inadequate, unreliable, unaffordable, or all three.

### **IV. Capital funding may be a problem.**

The Pine/Strawberry community is marginally able to fund the drilling and development of deep-well groundwater sources. Contending with environmental challenges and litigation over perceived water rights would require significant outside funding assistance.

### **V. This solution is localized to Pine and Strawberry.**

Current studies (2005) regarding surface water transfers from Blue Ridge Reservoir and distribution to areas of Northern Gila County are competing for funding sources not yet secured. The forming of regional alliances or authorities may not be the most cost-effective and timely approach because

the conditions and solutions for the unique problems of the various areas do not meld together. One more layer of bureaucracy won't serve the public need well.

#### **VI. PSWID seeks to act in a timely manner.**

At present, Arizona water laws and regulations allow the drilling of deep private and municipal wells into the R-Aquifer. As the overall Arizona water needs are addressed by State and Federal agencies, Pine/Strawberry may need special dispensations or exceptions from future legislation and regulatory requirements created to control groundwater use.

#### **VII. PSWID seeks to act in cooperation with other agencies.**

PSWID Board members maintain contact and work cooperatively with local, county, state, and federal organizations and officials who are concerned with water problems in rural communities. Geologic and hydrologic data is exchanged with Northern Arizona University, Gila County Board of Supervisors, City of Payson, and the Mogollon Rim Water Resources Management Study (MRWRMS) Group. State and Federal Senators and Congressmen are kept informed of the current status of the PSWID program.

#### **VIII. PSWID seeks the support of County, State, and Federal Institutions.**

PSWID fiscal resources are limited and will be used efficiently. In addition, aid potentially available from sources external to the community is actively sought.

One such potential source derives from U.S. Senate bill S.895 "Rural Water Supply Act of 2005". This bill passed the Senate on 11/16/2005 and was received in the House on 11/17/2005. It was referred to the House Committee on Resources on the same day. This bill directs the Secretary of the Interior to conduct a program to provide a clean, safe, affordable, and reliable water supply to rural residents in the Reclamation States (Arizona is one of these). Activity carried out under this title is to be carried out in cooperation with a qualifying non-Federal project entity (it appears that the PSWID would qualify as such an entity). Appraisal investigations and feasibility studies will be conducted of candidate water supply projects and recommendations made as to whether the water supply project should be authorized for construction. The Federal share of the appraisal investigation is 100% up to \$200,000.00. For authorized projects, the Federal share of the construction costs shall be up to 75%. The PSWID Board will follow the progress of this bill and, if enacted, will actively seek to participate in the program.

Although the plan for Phase 2 of the Mogollon Rim Water Resource Management Study (MRWRMS) has not been finalized, there is a possibility that it will include the drilling of one or more exploratory boreholes in the Pine area by the MRWRMS partners. The objective is to further investigate the geology of the region and to attempt to locate water sources suitable for commercial development. These investigations are planned for early 2006. Although not a MRWRMS partner, the PSWID Board will cooperate and may participate in this project and will take the results into consideration in planning the PSWID water source development program. The PSWID Board will urge that any such boreholes be of adequate diameter for installation of a pump and the conduct of meaningful draw down tests.

State Senator Jake Flake has established a Rural Water Legislative Study Committee (Senate Bill 1336) in the Arizona Legislature for the purpose of investigating the nature of rural water problems and possible solutions. The PSWID will cooperate and work with that committee, if called upon, by providing documentary evidence and testimony from our resources.. We greatly desire that elected officials understand the details of our water problems and proposed solutions.

#### **REFERENCES:**

1. **"Investigation of Groundwater Availability for the Pine/Strawberry Water Improvement District"**, Prepared for the PSWID by Morrison-Maierle, Inc., Chief Geologist, Michael B. Kaczmarek, RG, August 2003.
2. **"Revised Water Supply and Demand for the Pine and Strawberry Area of Gila County Arizona 2005 - 2055"**, Adopted by the Pine/Strawberry Water Improvement District Board of Directors, April 21, 2005, Revised May 19, 2005
3. **"Draft Alternatives"** document, Received 11/16/04, from Mogollon Rim Water Resources Management Study (MRWRMS), U. S. Bureau of Reclamation, including NGCWPA Alternatives.
4. **"Alternative Designation Report"**, PSWID Alternatives Committee, Presented to PSWID Board May 19, 2005, Adopted June 15, 2005.

5. **"Alternatives Summary Report"**, PSWID Alternatives Committee, Presented to PSWID Board May 19, 2005, Adopted June 15, 2005.
6. **"Priority Recommendations Report"**, PSWID Alternatives Committee, Presented to PSWID Board May 19, 2005, Adopted June 15, 2005.
7. **"R-AQUIFER IN NORTHERN ARIZONA,"** Errol L. Montgomery and Edwin H. McGavock, ERROL L. MONTGOMERY & ASSOCIATES, INC., Tucson, AZ 85719, Arizona Hydrological Society, AHS 2003 ANNUAL SYMPOSIUM FINAL ABSTRACT

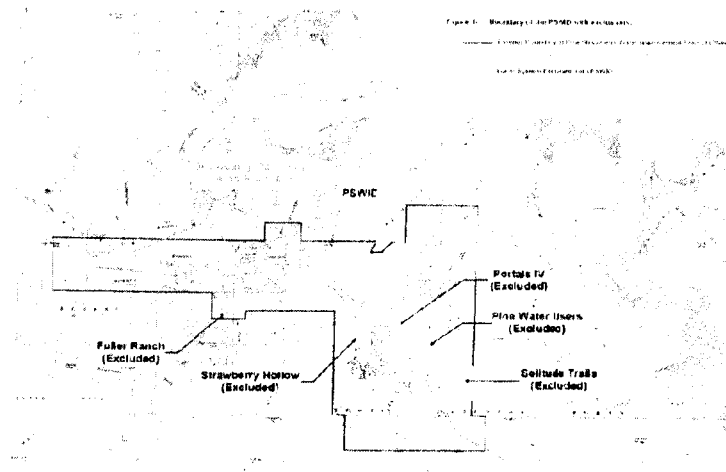


Figure 1-1 – Boundaries of PSWID and Private Land/NFS  
Click on Graphic for Larger View